

**Supporting Statement**  
**U.S. Department of Commerce Bureau of Industry and Security**  
**for Procedures for Submitting Rebuttals and Surrebuttals Requests for Exclusions**  
**from and Objections to the Section 232 National Security Adjustments**  
**of Imports of Steel and Aluminum**

**OMB Control No. 0694-0141**

**A. Justification**

**1. Explain the circumstances that make the collection of information necessary.**

Background on Section 232

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. §1862) authorizes the Secretary of Commerce (Secretary) to conduct comprehensive investigations to determine the effects of imports of any article on the national security of the United States. Section 232 investigations include consideration of:

- Domestic production needed for projected national defense requirements;
- Domestic industry’s capacity to meet those requirements;
- Related human and material resources;
- The importation of goods in terms of their quantities and use;
- The close relation of national economics welfare to U.S. national security;
- Loss of skills or investment, substantial unemployment and decrease in government revenue; and
- The impact of foreign competition on specific domestic industries and the impact of displacement of any domestic products by excessive imports.

Section 232 requires that the Secretary notify the Secretary of Defense that an investigation has been initiated. The Secretary also consults with the Secretary of Defense regarding methodological and policy questions raised in the investigation and can seek information and advice from other government agencies.

The Secretary’s report to the President, prepared within 270 days of initiation, focuses on whether the importation of the article in question is in such quantities or under such circumstances as to threaten to impair the national security. The President can concur or not with the Secretary’s recommendations, and, if necessary, take action to “adjust the imports of an article and its derivatives.” In addition, pursuant to other sources of authority, the Secretary can recommend, and the President can take, other lawful non-trade related actions necessary to address the threat.

Background on exclusion request and objection process

On March 8, 2018, President Trump issued Proclamations 9704 and 9705, imposing duties on imports of aluminum and steel. The Proclamations also authorized the Secretary of Commerce

to grant exclusions from the duties “if the Secretary determines the steel or aluminum article for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations.”

On March 19, 2018, the Secretary of Commerce issued an interim final rule, setting forth the requirements U.S. businesses must satisfy when submitting exclusion requests. On behalf of the Secretary, the U.S. Department of Commerce, Bureau of Industry and Security (DOC/BIS) published the March 19 rule, *Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States; and the filing of Objections to Submitted Exclusion Requests for Steel and Aluminum* (83 FR 12106). The March 19 rule also set forth the requirements that U.S. parties must meet when submitting objections to exclusion requests. The March 19 rule amended the National Security Industrial Base Regulations to add two new supplements, Supplements No. 1 (for steel exclusion requests) and No. 2 (for aluminum exclusion requests) to part 705. The Secretary started this process with the publication of the March 19 rule and is continuing that process to make various improvements with the publication of a second interim final rule described below, including adding a rebuttal and surrebuttal process.

#### Updates & Improvements to Section 232 Steel and Aluminum Exclusion Request and Objection Processes

On September 11, 2018, BIS published a second interim final rule, *Submissions of Exclusion Requests and Objections to Submitted Requests for Steel and Aluminum* (83 FR 46026). The second interim final rule published by BIS, on behalf of the Secretary, made changes to the two supplements added in the March 19 rule: Supplement No. 1 to Part 705 - Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel Articles into the United States; and to Supplement No. 2 to Part 705 - Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 to Adjusting Imports of Aluminum into the United States.

The September 11 rule made needed changes to the two supplements to address the directives included in the Presidential Proclamations 9776 and 9777 of August 29, 2018, and to make improvements to the exclusion process to ensure users of steel and aluminum in the United States would continue to have access to the needed steel and aluminum that they may need, as directed in the earlier Presidential Proclamations 9704 and 9705. The rule added a rebuttal and surrebuttal process, and also added an expedited review process to expedite the granting of properly filed exclusion requests which receive no objections and present no national security concerns.

On June 10, 2019, BIS issued a third interim final rule, *Implementation of New Commerce Section 232 Exclusions Portal* (84 FR 26751), that revised the two supplements added by the March 19 and September 11 rules to grant the public the ability to submit exclusion requests through the new Section 232 Exclusions Portal. The 232 Exclusions Portal streamlined and

centralized the exclusion process in one online portal and provided enhanced transparency, data integrity and quality controls to users of steel and aluminum in the United States.

On December 14, 2020, BIS issued a fourth interim final rule, *Implementation of New Commerce Section 232 Exclusions Portal* (85 FR 81060), which established a list of General Approved Exclusions (GAEs) to reduce the number of exclusion requests for products consistently found not to be produced in the United States, reducing the submission burden on both industry and the Section 232 exclusions process. The interim final rule also contained several significant process improvements based on constructive feedback previously received from domestic industry including new legal certifications for requestors and changes to the internal review criteria used to adjudicate exclusion requests.

On December 9, 2021, BIS issued a fifth interim final rule, *Removal of Certain General Approved Exclusions (GAEs) Under the Section 232 Steel and Aluminum Tariff Exclusions Process* (86 FR 70003), which removed several General Approved Exclusions (GAEs) from the list published in the fourth interim final rule in December 2020.

As of March 6, 2022, the Department of Commerce has received 387,837 exclusion requests and 256,492 objections, rebuttals, and surrebuttals.

The Information Collection number, 0694-0141, described in this support statement covers the paperwork needed to be submitted to DOC to submit these rebuttals to objections received on posted exclusion requests and to allow for surrebuttals for objections that receive rebuttals under the Section 232 exclusion process.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The rebuttals to submitted objections and surrebuttals to rebuttals to submitted objections must be submitted in electronic form using the 232 Exclusions Portal. All rebuttals and surrebuttals must be in electronic form but may be submitted at any time. All submissions for rebuttals and surrebuttals are entirely voluntary.

The information submitted will be evaluated and used by BIS's Office of Technology Evaluation (OTE) to make recommendations to the Secretary regarding which exclusion requests, taking into account any objections, rebuttals, and surrebuttals to submitted exclusion requests received, should receive favorable consideration. The Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, will use the information included in these exclusion requests as well as any objections, rebuttals, and surrebuttals and the International Trade Administration's (ITA) recommendations to determine which exclusion requests to approve.

The responses to the exclusion requests and objections, rebuttals, and surrebuttals to submitted exclusion requests will also be posted on the 232 Exclusions Portal and will be a matter of public record.

The Section 515 Information Quality Guidelines apply to this information collection and comply with all applicable information quality guidelines, *i.e.*, OMB, Department of Commerce, and specific operating unit guidelines.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

The online 232 Exclusions Portal will be used for parties in the United States submitting exclusion requests and objections, rebuttals, and surrebuttals to submitted exclusion requests. The 232 Exclusions Portal will also be used for managing and posting DOC's responses to each of the exclusion requests. Confidential business information submitted as part of an exclusion request, objection, rebuttal, or surrebuttal is submitted by email.

**4. Describe efforts to identify duplication.**

The information voluntarily submitted by U.S. parties is not duplicated anywhere else in the Federal Government for purposes of considering exclusions authorized by the President from his efforts to adjust imports in response to the determinations made by the Secretary based on the finding to the Section 232 National Security Investigation of Imports of Steel and Aluminum. Similar information is not available from any other source. The requested information is unique to BIS.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

The information voluntarily submitted must be provided by U.S. parties, regardless of size, if they wish to request an exclusion from the remedies instituted by the President for a steel or aluminum product. These requirements cannot be minimized to lessen the paperwork burden on small businesses.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

This is a voluntary collection. If the collection is not conducted, U.S. companies would not have the opportunity to submit rebuttals and surrebuttals to objections received on requests for exclusion from the remedies instituted by the President, with the possible result of economic hardship for U.S. companies, that in certain cases may not be needed in order for the larger national security objectives of the adjustment of imports instituted by the President to be achieved. These voluntary rebuttals and surrebuttals allow the U.S. Government to evaluate whether an exclusion request should be granted based on the information provided in an

exclusion request and taking into account any objections, rebuttals, and surrebuttals to a submitted exclusion request.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

The notice requesting public comment was published in the Federal Register on 11/23/2021. 86 FR 66523. No public comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

Not applicable.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

All exclusion requests, objections, rebuttals, and surrebuttals, and comments on the five interim final rules are made available for public inspection and copying. Information that is subject to government-imposed access and dissemination or other specific national security controls, e.g., classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Additionally, personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Individuals and organizations submitting exclusion requests, an objection to submitted exclusion requests, rebuttals, or surrebuttals are responsible for ensuring such information is not included. Individuals and organizations that have confidential business information should so indicate in the appropriate field of the relevant form. Paragraph (b)(5) in Supplements No. 1 and No. 2 describe how to submit confidential business information for rebuttals and surrebuttals. Individuals and organizations must otherwise fully complete the relevant forms.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no questions of a sensitive nature.

**12. Provide an estimate in hours of the burden of the collection of information.**

The total annual burden related to the rebuttal and surrebuttal information collection activities described in Part 705 of Subchapter A, National Security Industrial Base Regulations is expected to be approximately 19,462 burden hours for all respondents. It is estimated that BIS will receive 13,887 rebuttal, and 5,575 surrebuttal submissions annually. Each rebuttal and surrebuttal is estimated to take 1 hour to prepare. These estimates are based on the number of different steel products and aluminum products in the U.S. market and an estimate of the amount of time it would take a claimant to acquire, assemble and submit in the 2323 Exclusions Portal the approximately twenty-nine data elements for the form required to be included in a rebuttal or surrebuttal.

A detailed breakdown of the burden hour and cost estimates are listed in the chart below.

Type of Submission	Submissions	Burden hours to the public	Costs to the public (at \$37 per hour)	Burden hours to the USG	Costs to the USG (at \$39 per hour)
Rebuttals	13,887	13,887 (1 hour per submission)	\$513,819	27,774 (at 2 hours per submission)	\$1,083,186
Surrebuttal	5,575	5,575 (1 hour per submission)	\$206,275	11,150 (at 2 hours per submission)	\$434,850
<b>TOTAL</b>	<b>19,462</b>	<b>19,462</b> (1 hour per submission)	<b>\$720,094</b>	<b>38,924</b> (at 2 hours per submission)	<b>\$1,518,036</b>

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).**

Since no special equipment is required for this activity, there are no capitalized costs associated with this collection of information. Submitting rebuttals and surrebuttals in the 232 Exclusions Portal is free. It does require access to the Internet but, if needed, free Internet access and computers to access the 232 Exclusions Portal are available at public libraries. Submitting confidential business information by email is also free.

**14. Provide estimates of annualized cost to the Federal government.**

It is estimated that the total annual cost to the Federal Government will be approximately \$1,518,036. A detailed estimate is given in the burden hour chart in question 12 above.

**15. Explain the reasons for any program changes or adjustments.**

Using current data (As of 3/7/2022), there has been a decrease in the number of respondents compared to previous years resulting in a reduction in burden hours. As this collection continues, BIS will adjust these numbers to reflect more continuing changes in data.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

There are no plans to publish this information for statistical purposes, except to the extent needed for importers, the United States Government, and other parties to identify approved exclusion requests. The online 232 Exclusions Portal will be used for parties in the United States submitting exclusion requests and objections, rebuttals, and surrebuttals to submitted exclusion requests. The 232 Exclusions Portal will also be used for managing and posting DOC's responses to each of the exclusion requests.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not applicable.

**18. Explain each exception to the certification statement.**

Not applicable.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.